

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

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*IP*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/211,755	12/15/98	JONES	K 54002-D/JPW/

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HM12/0403

EXAMINER

BRANNOCK, M

ART UNIT

PAPER NUMBER

1646

*17*

DATE MAILED:

04/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Advisory Action

Application No.

09/211,755

Applicant(s)

Jones, KA

Examiner

Michael Brannock, Ph.D.

Group Art Unit

1646



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 4 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

**Applicant's response to the final rejection, filed on Mar 7, 2001 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:**

☒ The proposed amendment(s):

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☒ will not be entered because:

- ☒ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The proposed amendments do not comply with the requirements of 37 CFR 1.121. see Attachent to Advisory Action

- ☐ Applicant's response has overcome the following rejection(s):

☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: none

Claims objected to: none

Claims rejected: 208, 210, 213, 214, 221-225, and 233-240

☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☒ Other Non elected claims have not been cancelled.

Attached: MPEP Bookmark Bulletin on "Simplified Amendment Practice"

Art Unit: 1646

***Attachment to Advisory Action***

The amendment filed 3/7/01 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

The proposed amendment raises new issues that would require further consideration and/or search. The proposed amendments would necessitate a search and consideration of SEQ ID NO: 48 and 49, which were not present in the claims nor in the specification at the time of the final office action.

The Declaration under 37 CFR 1.132 filed 3/7/01 would have been sufficient to incorporate by reference into the specification if the proposed amendment had been entered.

Additionally, the amendments filed 3/7/01 fail to comply with 37 CFR 1.121:

**Notice of Non-Compliant Amendment (37 CFR 1.121)**

The amendment filed 3/7/01 is considered non-compliant because it has not been submitted in the format required under 37 CFR 1.121, as amended on September 8, 2000 (see *65 Fed. Reg.* Sept. 8, 2000, and *1238 O.G.* 77, Sept. 19, 2000):

The amendment does not include a clean version of the replacement paragraph(s)/section(s). 37 CFR 1.121(b)(1)(ii).

Art Unit: 1646

The amendment does not include a marked-up version of the replacement paragraph(s)/section(s). 37 CFR 1.121(b)(1)(ii).

The amendment does not include a clean version of the amended claims(s). 37 CFR 1.121(c)(1)(i).

For your convenience, attached to this correspondence is a copy of an informational flyer (MPEP Bookmark Bulletin on "Simplified Amendment Practice").

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (703) 306-5876. The examiner can normally be reached on Mondays through Fridays from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, Ph.D., can be reached at (703) 308-6564.

Official papers filed by fax should be directed to (703) 308-4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB

April 2, 2001

*David Romeo*  
*Primary Examiner*